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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,629	02/04/2004	Myan Spaccarelli	7294-101	5652
167	7590	12/21/2005	EXAMINER	
FULBRIGHT AND JAWORSKI LLP 555 S. FLOWER STREET, 41ST FLOOR LOS ANGELES, CA 90071			KIM, SANG K	
			ART UNIT	PAPER NUMBER
			3654	
DATE MAILED: 12/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,629

Applicant(s)

SPACCARELLI ET AL.

Examiner

SANG KIM

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Claim Objections

Claim 19 is objected because it depends from itself. For this office action, it has been presumed that it depends from claim 13.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

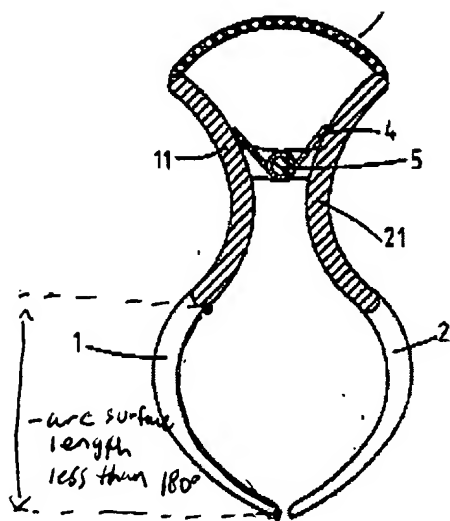
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee, U.S. Patent No. 5803096.

Lee '096 shows a device comprising: opposing clamp members 1, 2 hingedly connected and biased 4 toward a closed position, wherein each opposing clamp member includes a curved inner surface with one or more fingers extending over the material, and handles 7 being adapted to leverage the opposing clamp members into an open position, see figure 7. Note: a recitation for using the device for clamping an unused toilet paper roll or any other roll to prevent unwinding is intended used of the claimed device. If the prior art structure is capable of performing the intended use, then it meets the claim.

With respect to claims 7 and 12, each arcuate surface has an arc length of less than 180 degrees is inherently taught by Lee '096 since each arcuate surface measured from one end to the other end does not extend more than 180 degrees, see figure 6 below:



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee, U.S. Patent No. 5803096, in view of Loranger, U.S. Patent No. 4137818.

As advanced above, Lee '096 shows all the structural elements of the applicant's claimed device. However, Lee '096 device is for clamping hair rather than a roll.

Loranger '818 discloses a device 56 for protecting and clamping of a roll to prevent accidental pulling off thread winding, see figure 6. Furthermore, the device can be various sizes and the material can be made from spring-like properties, see column 4, lines 55-68.

Art Unit: 3654

Since both devices are designed to clamp or hold the material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Lee '096 by incorporating the roll as taught by Loranger '818 to clamp the roll and prevent the material from unwinding.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG KIM whose telephone number is 571-272-6947. The examiner can normally be reached Monday through Friday from 8:00 A.M. to 5:30 P.M. alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/772,629

Page 5

Art Unit: 3654

SK

12/1/05

Kathy Matecki

KATHY MATECKI
SUPERVISORY PATENT EXAMINER
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